

Senate Standing Committee on Education and Employment

QUESTIONS ON NOTICE Budget Estimates 2014-2015

Agency - Fair Work Ombudsman

Department of Employment Question No. EM0812_15

Senator Back asked on 2 June 2014 on proof Hansard page 25

Question

FWO - Compliance orders

CHAIR: Thank you—both of you. Ms Webster, have you completed your answer to my questions? Ms Webster: Yes. CHAIR: Thank you very much. I wish to move on to something else. Ms James, can you advise, perhaps even on notice, how many compliance orders have been made since September last year, the actual rate of underpayments—if indeed the compliance orders related to underpayments—and the nature of non-compliances. Are you able to answer that now or would you find it easier to take that on notice? Ms James: When you ask about compliance orders are you asking about our internal findings or determinations that there has been a non-compliance? CHAIR: That is right. Mr Campbell: Just to clarify our request for clarification, we have an enforcement tool available to us called a compliance notice where we effectively identify a breach and then put a notice on an employer saying, 'You must make good certain things.' If they fail to do so that is a contravention of that notice. Then in other parts of our investigations where we make findings we do not issue that compliance notice because it is an enforcement tool we use for contraventions which are perhaps more serious or involve circumstances which require more significant enforcement activity. If you bear with me for a few seconds I can get the number of compliance notices we have issued. Ms James: In the meantime, just as a bit of a framework: since 1 July last year until the end of March we have received just under 19,000 complaints. CHAIR: That is during this financial year? Ms James: That is correct. We have recovered just under \$12 million worth of funds in that same period and we have also finalised just under 3,500 orders. We can give you exact numbers in a question on notice. Mr Campbell: So far this financial year to the end of 31 March we have issued 52 compliance notices and 103 infringement notices, which is effectively an on-the-spot fine. CHAIR: In relation to what nature of non-compliances, Mr Campbell? Are they all underpayments? Mr Campbell: I would hazard a guess that the non-compliances are—if not all, certainly the majority—underpayment matters. The infringement notices go to issues of record keeping. So where we have identified that an employer has failed to keep appropriate employment records we are able to issue an infringement notice on the spot. CHAIR: Are you able from your files to tell us what proportion of those are due to genuine rip-offs and what proportion are due to poor record keeping? Again, if you cannot provide that now I would be happy for you to provide it to the committee on notice. Mr Campbell: We will shape up a response for you on notice, if that is all right.

Answer

From 1 July 2013 to 31 March 2014, the Fair Work Ombudsman has finalised 19,564 complaints and 3,442 audits. The Fair Work Ombudsman has recovered \$11,854,079 for 9,797 employees.

The Fair Work Ombudsman has found that the average monetary contravention rate across all national and state and territory campaigns completed during 1 July 2013 to 31 March 2014 was 26 per cent.

The average non-monetary contravention rate (solely record keeping and pay slip contraventions) is 15 per cent.

In its compliance activities, the Fair Work Ombudsman finds that most employers are trying to comply with their workplace obligations.

The Fair Work Ombudsman's enforcement model contains a range of treatments that enable us to adopt a proportionate approach to our compliance and enforcement activities.

These range from placing greater emphasis on dispute resolution techniques, such as providing information and mediation, through to formal compliance, such as enforceable undertakings, compliance notices and litigation where appropriate.